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NO. _____

In The
UNITED STATES SUPREME COURT

CHIVALRY FILM PRODUCTIONS and JOSEPH ARDITO Individually,

Petitioner,

-v-

NBC UNIVERSAL, INC., UNIVERSAL PICTURES COMPANY, INCORPORATED, UNIVERSAL STUDIOS, INC., UNIVERSAL STUDIOS LLC, UNIVERSAL CITY STUDIOS LLLP, UNIVERSAL CITY STUDIOS, INC., UNIVERSAL CITY STUDIOS PRODUCTIONS LLLP, DREAMWORKS, L.L.C., DREAMWORKS L.L.C. D/B/A DREAMWORKS SKG, DREAMWORKS PRODUCTIONS LLC, DREAMWORKS, INC., TRIBECA PRODUCTIONS INC., AMY SAYRES, NANCY TENENBAUM, NANCY TENENBAUM FILMS, INC., TWENTIETH CENTURY FOX FILM CORPORATION, EVERYMAN PICTURES, JAY ROACH, AND JAY ROACH D/B/A EVERYMAN PICTURES,

Respondents,

On Petition For WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS For the SECOND CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Pro Se: **Joseph Ardito**
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QUESTIONS PRESENTED

I.

Whether a plaintiff in a copyright infringement case involving Stolen Federal Copyright clearly demonstrates access and overwhelming Characters, Scenes, and Settings that actually proves copying and plagiarism had occurred would he be entitled to discovery?

II.

Whether plaintiff in these proceedings is entitled to start anew due to a retained attorney who assisted in formulating said complaint against the defendants and had intentionally tried to sabotage the proceedings due to his involvement and interest in the outcome?

III.

Whether the Civil RICO in this case can be re-instituted against the defendants due to frauds perpetrated by defendants throughout these legal proceedings by the intentional tampering of federal evidence and perjured affidavits used to manipulate and distort the outcome of said proceedings?

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STATEMENT OF JURISDICTION

This is a direct appeal from a judgment of the United States Court of Appeals for the Second Circuit dated October 4th, 2007. There is no order respecting a rehearing, and no extension of time to file present petition for writ of certiorari has been filed.

The jurisdiction of this court is invoked pursuant to 28 U.S.C. Petitioner, Section 1254(1).

Rule 29.6 Statement

Petitioner, Chivalry Film Productions is a sole proprietorship duly organized existing under and by virtue of the laws of the State of New York, County of New York, Joseph Ardito is the sole owner of plaintiff Chivalry Film Productions.

Statutory Provisions Involved

Federal Copyright Act of 1976, as amended 17 U.S.C.A. Section 101. et seq, 28 U.S.C Section 1367, Racketeer Influence and Corrupt Organization (R.I.C.O.) pursuant to Title 18 U.S.C. (c)-(a) Federal Wire Fraud, (b) Federal Mail Fraud. 28 U.S.C. Section 1391 (b) and (c) and 1400 (a), under 15 U.S.C. Section 1125 (a) and Section 43 (a) of the Lanham Act. Canadian Copyright Statute, the United Kingdom's Copyright Statute, Australia's Copyright Statute of 1968 and Japan's Copyright Law, all of which are enforceable by U.S. citizens under applicable treatise and conventions, under the Universal Copyright Convention (UCC) and under

the "Berne Convention" the judicial code 28 U.S.C.A. Section 1338 (a).

STATEMENT OF THE CASE

A. Introduction

Petitioner Chivalry Film Productions, et al., sues respondents NBC, et al. This action arises under the Federal Copyright Act of 1976, as amended, 17 U.S.C.A. Section 101. Seq. This action also arises under plaintiffs Claim II for an accounting that is a supplemental claim that this Court has jurisdiction over Count II is based on supplemental jurisdiction pursuant to 28 U.S.C. Section 1367. This action also arises under the Racketeer Influenced and Corrupt Organization (R.I.C.O) pursuant to Title 18 U.S.C (c) – (a) Federal Wire Fraud, (b) Federal Mail Fraud. This action also arises Pursuant to 28 U.S.C Section 1391 (b) and (c) and 1400 (a), under 15 U.S.C Section 1125 (a) and Section 43 (a) of the Lanham Act. This action also arises under the Canadian Copyright Statute, the United Kingdom's Copyright Statute, Australia's Copyright Statute of 1968 and Japan's Copyright Law, all of which are enforceable by U.S. citizens under applicable treaties and conventions, under the Universal Copyright Convention the ("UCC"), and under the Berne Convention for the Protection of Literary and Artistic Works "The Berne Convention". The Judicial Code (28 U.S.C.A. Section.1338 (a)). Because the United States, Canada, the United Kingdom, Australia and Japan are all signatories to the UCC and the Berne Convention and because this Court has personal jurisdiction over each of the defendants, plaintiffs Chivalry Film Productions and Joseph Ardito, are

entitled to seek and obtain both nationwide and extraterritorial injunctive relief and damages in this Court, as a result of the defendants' infringement of plaintiff's Chivalry Film Productions and Joseph Ardito's copyrights in each of the above-referenced countries, pursuant to the copyright laws of each of those countries, respectively.

This action consist of a comprehensive premeditated scheme by the defendants carefully designed and calculated over the years with intent through deliberate and willful acts of the defendants in concert, a scheme solely devised to intentionally deprive and defraud this petitioner of his Federal Certificates of Copyright Registration, rights accrued and protected to him from infringement of his own, origination, creation and/or development of his literary novel/screenplay entitled "The Tenant" and/or "The Dysfunctionals" (Certificates of Copyright Registrations – (a) Txu-742-462, (b) Txu-775-750, (c). Pau-2-380-629, (d). Pau-2-423-720, (e). Pau-2-283-460) these manuscripts are identified as comical satires ridiculing dysfunctional families. **See App. 196.**

On or about January, 2005 this plaintiff viewed "Meet the Fockers" the character, scenes and setting seemed very similar to that of this petitioner's copyrighted manuscript "The Tenant" and/or "The Dysfunctionals." After viewing "Meet the Fockers" and a subsequent viewing of "Meet the Parents" made it quite clear and evident to this plaintiff, that these screenplays were in fact a blatant copyright infringement of this petitioner's "Stolen Federal Copyrighted Materials" entitled "The Tenant" and/or "The Dysfunctionals" that had been reported stolen

on August 21st, 1998 police report number 980626165. **See also App. 197.**

The defendants released a screenplay motion picture entitled "Meet the Parents" and a derivative screenplay picture entitled "Meet the Fockers." The defendants intentionally, deliberately and willfully released these pictures to the general purchasing public two separate movies that consisted of overwhelming parts of the same identical synopsis, theories, characters, scenes and settings etc.

Each of these two movies motion picture productions entitled "Meet the Parents" and "Meet the Fockers" was prepared, created, developed and proscribed by said defendants and so released for viewing and purchase, by the general public in movie theatres, on video reproductions, and other electronic and/or magnetic tape devices and by methods of reproduction recording CD-ROM, cable television, reruns on national television and syndication television, Pay Per View, movies made for television and International/Foreign viewing by the general public throughout the world, by means of Foreign, International, Domestic, Interstate and Interstate commerce. (Satellite devices, computer software via email, United States Postal Service, United States Mail Service, mail and wire transfers and communications, publications and distributions) containing substantial material parts, components thereof, in fraud, deceit and deception of petitioner's federally protected and secured registrations of petitioner's Certificates of Copyright (Txu-742-462,Txu-775-750, Pau-2-380-629, Pau-2-423-720, Pau-2-283-460 comical satires ridiculing dysfunctional families entitled "The Tenant" and/or

"The Dysfunctionals" without the expressed , written or oral permission nor exclusive permission, consent or authority by petitioner in violation of petitioner's rights secured by and entitled under the Federal Copyright Act of 1976, as amended, 17 U.S.C.A. Section 101. Seq.

The defendants, and each of them, were all members of a group of the movie motion picture producers, directors, officers, authorized agents, benefactors, editors, screenwriters, movie composers, movie motion pictures, distributors and movie production companies were conspirators who agreed between and among themselves to engage act conduct and/or perform and did engage in criminal conduct and/or perform and are engaging in criminal activities in acting conducting and/or performing in acts of wrongful deception, misrepresentation, fraud, deceit to the petitioner and that of the purchasing public, wrongful deprivation of wrongful deception of petitioner's good name and reputation and credit as a screenwriter, composer, editor, and creator of certain copyrighted literary and/or artistic works and the owner of the copyrighted screenplays entitled "The Tenant" and/or "The Dysfunctionals."

On January 11th, 2006, the district court dismissed plaintiff's various other causes of action at the pleading stage. On December 22nd, 2006, the district court entered a final judgment that disposed of all the parties' claims.

The Second Circuit affirmed the district court's decision on October 4th, 2007.

B. STATEMENT OF FACTS

1. The Premeditated Scheme by the defendants to steal and deprive this petitioner of his federal protected copyrighted materials.

This petitioner in 1993 became a neighbor of **Robert Epstein,** an attorney affiliated with Julien & Schlesinger located at 150 William Street, 19 floor, New York, New York. This petitioner became involved in an International Custody battle in January 1997 that involved the petitioning of the "Hague Convention." Robert Epstein, familiar with the facts, helped assist this petitioner in formulating the legal affidavits for said case.

Robert Epstein knew this petitioner as a writer since 1993 that had every intention of breaking into the film industry on an independent level with a project entitled "The Tenant" and/or "The Dysfunctionals," a multi-faceted novel/screenplay, a comical satire ridiculing dysfunctional families.

Robert Epstein throughout the friendship had requested on numerous occasions to read this petitioner's novel and was never afforded the opportunity by petitioner. However, in an attempt of persuading this petitioner to release the novel/screenplay in January 1997, Robert Epstein claimed to have been one of this petitioner's best friends and vowed as an attorney to keep all materials in relation to said novel entitled "The Tenant" and/or "The Dysfunctionals" confidential as an attorney. Robert Epstein in gaining this petitioner's trust claimed he also intended to break

into the entertainment industry as an attorney and had no interest in the writings of novels or screenplays. Robert Epstein claimed that he would become "in house" counsel to this petitioner's future film company that became known as "Chivalry Film Productions" founded by this petitioner in 1998.

This petitioner felt as though Robert Epstein was sincere and felt comfortable in releasing the December 24th, 1996 novel entitled "The Tenant" and/or "The Dysfunctionals." It was agreed that all information regarding this novel/screenplay would remain confidential and that Robert Epstein would not make any copies or divulge any of the content.

Upon this agreement said novel/screenplay was released in good faith to Robert Epstein. Upon receipt of the novel/screenplay Robert Epstein flew off to the west coast and returned some four days later claiming that novel/screenplay was totally hilarious. Robert Epstein offered this petitioner a free office at Julien & Schlesingers located at 150 William Street, 19th floor, N.Y. N.Y, where this writer could work on his future projects.

On April 15th, 1998 this petitioner completed revisions and compilations on "The Tenant" and printed the novel out from his lap-top computer that was equipped with a small printer, with the intent of filing another copyright that same day. Robert Epstein came into the office and assisted this petitioner in making a copy of the project on Julien & Schlesingers's copy machine for the Library of Congress; it was 238 pages. Robert Epstein insisted that petitioner remain in the office and fill out the copyright application while he made the copy.

This petitioner after filling out the copyright application packaged the project in an envelope certified return receipt and upon information and belief Robert Epstein claiming to be on his way to the post office, mailed said copyright.

This same copyright mailed out on April 15th, 1998 had been returned from the Library of Congress a week and half later for **reasons unknown**. This petitioner checked the April 15th, 1998 copyright to make sure it was in **full** and re-mailed it back to the Library of Congress. **See App. 24.**

In August of 1998 this petitioner's best friend John died of liver cancer and after the funeral this petitioner headed out to California with his four year old daughter, Crystal, to vacation and to work on various projects outlines entitled "The Tenant" and "The Attorneys" and "The Hague." This petitioner made reservations at the Sheraton Hotel at Universal City.

Upon this petitioner's arrival into Los Angeles this petitioner received a phone call from **Robert Epstein** stating that this petitioner should go and stay at **Dr. Americo Semonini's** house for the night, another employee at Julien & Schlesigner's Office located at 150 William Street who was a doctor that evaluated personal injury cases for the firm.

Upon this petitioner's arrival at Dr. Americo Semonini house his girlfriend Brenda was present. Dr. Semonini requested to read this petitioner's project entitled "The Tenant" and/or "The Dysfunctionals." This petitioner flatly denied his

request and upon that note Dr. Americo Semonini claimed to be hungry. This petitioner was staying the night and as a courtesy was obliged to accompany and pay for the meal. My daughter Crystal at the time was only four years of age it was a bit late so I would have to carry her.

This petitioner was concerned about the projects and inquired as to the safety of the premise. Dr. Americo Semonini reassured this petitioner that the house was safe and the bags could be left. This petitioner made sure the bag containing the projects was secured with a lock prior to leaving the premise.

Upon the return to the house some 2 1/2 hours later, Dr. Semonini upon entering the premise screamed out that the door was open. It was a most awkward situation to encounter.

Upon entering the house, this petitioner checked his bag. The lock on the bag was missing, this petitioner opened the bag only to find that it had been ransacked, all of the papers had been disheveled and various project outlines were missing, "The Attorneys" and "The Hague. One project was put back "backwards" meaning that the first 60 pages were right side up and the next 178 pages were backwards. This project was entitled - "The Tenant" and/or "The Dysfunctionals" dated April 15th, 1998 (PAu-2-283-460). **See: App. 228**

This petitioner felt violated and became very cynical and notified Robert Epstein informing him of the theft and the petitioner's intentions of filing a police report. Robert Epstein instructed this petitioner not to file a report because Dr. Semonini

was his friend. This petitioner filed a report with the L.A.P.D. dated August 21st, 1998.
Los Angeles Police Report No.980626165.

Dr. Semonini some **2-5 days** after the physical theft of this petitioner's projects flew to Chicago on an alleged medical conference and to meet with two writer friends allegedly **Gregg Glienna and Mary Ruth Clarke**.

Upon information and belief Dr. Americo Semonini was actually arrested on his return flight from Chicago to Los Angeles for refusing to check his bag with the flight attendant that did not fit in overhead storage. This same scene was portrayed in "**Meet the Parents" 2000.**

Upon information and belief Dr. Semonini lived in Michigan where the supposed settings for the movie "Meet the Parents" 2000 had taken place even though scenes were filmed in N.Y.

Dr. Americo Semonini was **employed** at NBC Universal as a doctor on the sets.

Dr. Americo Semonini was an **agent employee and/or servant** of NBC Universal.

NBC Universal is a defendant in this action and also produced and distributed both "Meet the Parents" and "Meet the Fockers."

Steven Sodenburg is a close friend and patient of **Dr. Americo Semonini** was the producer affiliated with **Gregg Glienna and Mary Ruth**

Clarke and responsible for bringing the alleged 1991 "Meet the Parents" to NBC Universal.

Upon information and belief **Adam Schlesinger** an entertainment attorney located at 150 William Street, 19th floor, New York, New York is affiliated with most of the defendants in this action and attended school with **John Hamburg**.

John Hamburg who allegedly came up with most of the "Stolen Federal Copyrighted Materials" including characters, settings and scenes was one of the **screenwriters** on both **"Meet the Parents" and "Meet the Fockers."**

In essence the premeditated scheme to defraud and deprive this petitioner of his federal protected copyrights came from within his immediate surroundings. It is not like this petitioner is "coming out of Nebraska." These individuals were all linked to one another and the defendants in this case.

This petitioner upon viewing "Meet the Fockers" in January 2005 and subsequently viewing "Meet the Parents" intended to file a copyright action as expeditiously as possible. Robert Epstein had claimed he would assist, however he continually procrastinated for **months**. It was only when this petitioner began formulating the complaint on his own that Robert Epstein agreed to assist.

After **signing a retainer**, Robert Epstein made a conference call to Dr. Semonini informing him he had been retained to prosecute the case. This petitioner was instructed to remain silent during the conversation. The gist of said conversation seemed

tailored however during the course of said conversation Dr. Semonini told Robert Epstein that the script had been changed – "check your copy." The inference drawn by this statement would only conclude that both Dr. Semonini and Robert Epstein were both in possession of this petitioner's "Stolen Federal Copyrighted Materials." See **App. 229.**

In formulating this Petitioner's complaint Robert Epstein provided the prolific jurisdiction, attorneys' fees and made certain corrections that he claimed needed to be incorporated into the complaint. This petitioner originally intended to file said complaint in Westchester County because most of the defendants in the case had offices and maintain residence in Manhattan County, however, Robert Epstein was adamant and wanted to file said case in New York County upon a day of his availability.

Robert Epstein intentionally tried to sabotage the legal proceedings in this case due to his involvement. Discovery in this case would have unraveled the "Theft Ring" above involved in this petitioner's "Stolen Federal Copyrighted Materials" but this petitioner was denied discovery. **See App. 231.**

The respondents in this case throughout the proceedings have avoided any opposition to the allegations of interstate and international transportation of Stolen Federal Copyrights, fraud, mail fraud, wire fraud, perjured affidavits, tampering with federal evidence and a number of other crimes relating to this case.

The respondents' attorneys at the inception of the case made claims that certain defendants in this case

were not involved with the "Stolen Federal Copyrighted Materials," however, upon this petitioner request that the defendants provide an affidavit of non-involvement the defendants adamantly refused.

2. The Overwhelming Characters, Scenes and Settings that clearly prove that copying and plagiarism had occurred.

The **Characters** in "The Tenant" and/or "The Dysfunctionals": CIA, Mother, Father, Daughter, Sons, Dog, Nurse, Attorney, Doctors, Judge, Psychiatrist, Babies, toddlers, teenagers, Michael Angelo of Carpentry, In-Laws, A.S.P.C.A agent, Concerned Neighbor, Police Officer, Minister – Monk, Senior Citizens, Court Officer, Minister, etc, etc., **not only similar but identical** the characters in both "Meet the Parents" and "Meet the Fockers" were intentionally **portioned out**. Whatever portions of the "Stolen Federal Copyrighted Materials not used in "Meet the Parents" the balance of these same "Stolen Federal Copyrighted Materials were used in "Meet the Fockers."

Simple Mathematics: The same characters in "Meet the Parents" plus the same characters in "Meet the Fockers" equal all of the Characters combined in "The Tenant" and/or "The Dysfunctionals." This is indisputable and cannot be challenged.

The character differences in similarities are reviewed to determine whether the defendants' work has taken expression involving characters of the

first. *Zambito v. Paramount Pictures Corp.*, 613 F.Supp. 1107 (E.D.N.Y. 1985).

However, a number of similarities between characters can support a finding of substantial similarity, even if the similarities individually are common, stock elements. *Shaw v. Lindheim, 919 F.2d 1353 (9th Cir. 1990).*

In evaluating character similarity, courts tend to character background, attributes and motivation. *Herzog v. Castle Rock Entertainment*, 193 F.3d 1241, 1258 (11th Cir. 1999).

The Scenes in "The Tenant" and/or "The Dysfunctionals": Lie Detector test, frayed wire spark, control freak, time conscience, hidden surveillance camera, "I'm watching you," gay ridicule, volleyball game in where a woman sustains injury to her nose, skimpy bathing suit, carpenter ordering wood from Vienna, race home in where they pull up exactly three times making eye contact, incarceration scene, airport scene only person in the lobby of the airport, aircraft scene, frayed wire, shredded clothes, eviction, truth serum, drunk scene in where true feeling emerge, pulled over by police for speeding, rubber-dolls found by police with other sex paraphernalia leading the police to the conclusion that they were dealing with sexual deviants however upon further investigation this was not the case, stun gun-when administering the dose actually talking voltage, rules and regulations of the house my way or the shelter, jimmying the door, ransacking the bag, eavesdropping on the phone, speaking Asian dialect, southern accent, climbing up on the roof, tazer gun, police scene, Bureau Child

Welfare, investigative scene, jail scene, renovations of bathroom, hospital scene in where a baby is being born and the family is skeptical about doctor's qualifications however the delivery goes well and many more, rational v. dysfunctional method of bringing up children, psychiatrist getting to the foundation of the problem, claiming to have taken a shower however the hair is noticeably dry, etc, etc,.

Original Combination of substantial similarities and arrangement of individually unprotectable ideas can support a finding of copyright infringement. *Metcalf v. Bochco*, 294 F. 3d at 1073 (9th Cir. 2002).

The settings in "The Tenant" and/or "The Dysfunctionals": House, restaurant, car, vacation, airport, aircraft, hospital, volleyball court, beach, boat and many more.

The common settings for two works can support substantial similarity determination. *Universal Studios, Inc, v. Film Ventures International, Inc.*, 543 F. Supp 1134 (C.D. Cal. 1982).

"The Tenant" and/or "The Dysfunctinals" April 15th, 1998 copyright is a multifaceted novel/screenplay consisting of 238 pages that is equivalent to over 600 pages of script that incorporates all of the above characters, scenes and settings. "Meet the Parents" and "Meet the Fockers" are undoubtedly derived from this petitioner's "Stolen Federal Copyrighted Materials" the respondents **portioned off** the same **identical characters, identical scenes and identical settings** when you add both of the respondents' projects "Meet the Parents" and "Meet the Fockers"

all of the portioned characters, scenes and settings **equal** and are **identical** to the "Stolen Federal Copyrighted Materials" this is indisputable and clearly demonstrates on an elementary level that the respondents had unlawfully copied and plagiarized from this petitioner's "Stolen Federal Copyrighted Materials."

In *Harper & Row Publishers, Inc. v. Nation Enterprise,* 471 U.S. 539 (1985), they did not act in good faith, this weighs against giving him the benefit of fair use defense, the defendant had knowingly used a stolen copy of plaintiff's unpublished manuscript to obtain quotes. This fact contributed to the court's fair use defense.

Courts have held that an original combination of individuality unprotectable elements is itself protectable, and that the combination of unprotectable elements has been held eligible for copyright protection only if those elements are numerous enough and their selections and arrangements original enough that their combination constitutes an original work of authorship. *Dawson v. Hinshaw Music Inc.,* 905 F 2D 731, 736 15 U.S.P.Q. 2d 1132 (4th Cir. 1990), *see also Aliotta v. R. Dakin & Co.,* 831 F. 2d 898, 902, 4 U.S.P.Q. 2d 1869 (9th Cir. 1987). *Gershwin Publication Corp v. Columbia Artist Management, Inc.,* 443 F.2d 1159, (2d. Cir. 1971).

"The Tenant" and/or "The Dysfunctionals" is a **multifaceted** novel/screenplay a comical satire ridiculing dysfunctional families of which many movies can be made.

Jay Roach the director of both "Meet the Parents" and "Meet the Fockers" stated unequivocally in his "Meet the Fockers" commentaries "that the script was excellent and funny and had layer upon layers in which many movies could be made."

Jay Roach also stated in his commentaries that a "sequel was already written."

3. The Scheme of the alleged 1991 "Meet The Parents" videocassette that paved the way to Summary Judgment Motion.

The alleged 1991 "Meet the Parents" videocassette was requisitioned by this petitioner in July 2006 due to distortions and voice over. **See App. 27.** However, this request was circumvented by Tracie Coleman and the alleged 1991 "Meet the Parents" videocassette was not made available until after February or March of 2007, when summary judgment had already been decided. However, this petitioner had requested discovery on this case on numerous occasions but was declined by the court. **See: App. 22.**

(a) The perjured affidavits by employees located at the Library of Congress and offered into evidence.

Tracie Coleman and Richard D. Sharp both employees at the Library of Congress claimed under oath that the alleged 1991 videocassette by Gregg Glienna and Mary Ruth Clarke was found in a black box at the Library of Congress with "**no-labels attached on the cover**" side or front and "**no**

labels attached to the videocassette" on the front." See App. 25.

Richard D. Sharp a clerk at the Library of Congress sent a correction letter concerning PAU-1-571-116 (Meet the Parents) 1991 - stating that said video cassette tape came in an unmarked black box with no attached photo copies of the front of the video-cassette tape or of the front side of the video-cassette tape cover." **See App. 26.**

(b) The deliberate and intentional altering of the alleged 1991 "Meet the Parents" videocassette offered into evidence by intentionally and deceptively covering the label with the caption of the case for the purpose and intent of confirming fraudulent findings and receiving a favorable outcome. See App. 29.

Upon an independent inspection at the Library of Congress concerning the alleged 1991 "Meet the Parents" videocassette PAU-1-571-116. It was found that the affidavits procured by Tracie Coleman and Richard D. Sharp with respect to the 1991 videocassette had been procured with the intention of misleading this petitioner. The alleged 1991 Meet the Parents was in fact labeled on the side in a type written format either 60 minutes or 6 minutes because Gregg Glienna was also a song writer. However, the type written format had been manually altered and crossed out to reflect 72 minutes of time either altering 12 minutes of videocassette that is equivalent to 12 pages of script or altering an additional 66 minutes of videocassette that is equivalent to 66 pages of script, either way, the

evidence in this case has been compromised by these employees and the defendants. **See App. 30.** Tracie Coleman and Richard D. Sharp under oath had with intent and premeditation deceptively altered the affidavits with the intention of misleading this petitioner. **See: App. 24, 25, 26, 27, 29 and 30.**

Tracie Coleman in an affidavit also revealed that this petitioner was missing 31 pages from petitioner's April 15th, 1998 novel/screenplay entitled "The Tenant" and/or "The Dysfunctionals." Tracie Coleman has been entrusted with the videocassette and evidence in this case and has been deceptive, an investigation into these missing pages is warranted. **See App. 24.**

The defendants in this case in attempt to confirm, aid and abet the deception of the fraud perpetrated by Tracie Coleman and Richard D. Sharp concerning the alleged 1991 "Meet the Parents" videocassette, actually tampered with the federal evidence by deceptively covering the label on the side of the videocassette with the caption of the case and brazenly attaching this tampered federal evidence to defendants' summary judgment confirming on a visual note that **"no labels existed"** to intentionally distort and manipulate the outcome of these proceedings.

(c) The context of the alleged 1991 "Meet the Parents" videocassette.

The alleged 1991 "Meet the Parents" videocassette in question is a horror movie narrated by a gas station attendant in where all of the family members are killed including the dog. A stick is

thrown into the lake for the dog to fetch and the dog drowns. One daughter, a singer commits suicide and is found swinging from a rope in her bedroom claiming that she had been sexually molested by her sister's boyfriend. The father comes down the stairwell on a shotgun spree accidentally killing his surviving daughter and wife and supposedly dies of a heart attack thereafter.

The sequel to this alleged videocassette 1991 "Meet the Parents" is once again narrated by a gas station attendant - "A Father taking his children to the Circus" in where the entire family would be killed in a catastrophic event similar to the above.

The sequel to this petitioner's "The Tenant" and/or "The Dysfunctionals" is that the tenant moves on to "Meet another Dysfunctional family" squarely fitting into "Meet the Fockers." **Important to Note:** The respondents in this case unlawfully used the unused portions of characters, scenes and settings from the "Stolen Federal Copyrighted Materials" originally created and owned by this petitioner. This clearly proves beyond any reasonable doubt on a mathematical level that copying and plagiarism of the "Stolen Federal Copyrighted Materials" by the defendants is indisputable and cannot in reality be challenged.

ARGUMENT

The respondents' independent creation of the 1991 "Meet the Parents" videocassette has to be forensically evaluated due to the frauds perpetrated throughout these legal proceedings in relation to the

evidence. The affidavits procured under oath by employees (Tracie Coleman and Richard D. Sharp) were intentionally done so with the intent of misleading this petitioner and evading any type of discovery.

The intentional covering of the minutes of the alleged 1991 "Meet the Parents" videocassette with the caption of the case by defendants was to confirm the deceptive affidavits procured by Tracie Coleman and Richard D. Sharp as being true in relation to the labels. This proves that the defendants in this case will resort to any criminal means in protecting this "Organized Crime Syndicate" and protecting this alleged 1991 "Meet the Parents" videocassette from being forensically evaluated. The credibility of this evidence considering the circumstances surrounding this case is zilch.

Upon information and belief, Dr. Americo Semonini is affiliated with Robert Epstein, Steven Sodenberg, Mary Ruth Clarke, Gregg Glienna, Adam Schlesinger and John Hamburg.

Upon information and belief, Richard D. Sharp is employed at the Library of Congress and has a Ph.D. in English Literature and is also affiliated with the above, however, without discovery this petitioner has a problem verifying his connection.

The defendants in their summary judgment motion's reply papers to this petitioner's opposition claimed that this petitioner had mischaracterizations in the lie detector test - The lie detector test in "The Tenant" used a frayed wire that sparked in where the tenant was tied into a chair and questioned in

exposing the truth similar to Jack Brynes strapping Focker into a chair and questioning him to expose the truth.

The frayed wire spark scene was used as a home made lie detector test however when Gregg climbed up on the roof to pursue Jinx who vanished into thin air. Similar to Jimmy climbing up on the roof top chasing a neighbor who took off like a scared cat and vanished into thin air. Gregg started the fire with a frayed wire spark as he was trying to catch Jinx the cat who vanished into thin air.

The Tenant was traumatized by the ordeal and vented out his frustrations to the landlord. **similar** to Focker being traumatized by the ordeal and venting out his frustrations to Pam.

The landlord claimed to have known Bill Clinton, claiming to have been to the White House (Oval Office), claiming to have known the General and even claimed to have been going on a secret mission; **similar** to Jack Brynes having a picture with President Clinton, Jack Brynes having a picture with the General, Jack Brynes in a disguise dressed up as an Arab on a secret mission.

Defendants claim another mischaracterization: The landlord claimed to be CIA **similar** to Jack Brynes who was retired CIA agent.

Defendants claimed another mischaracterization in their reply papers, claiming that when the landlord claimed to be speaking Asian to the Asians he really did not know how to speak Asian **similar** Jack Brynes wife Dina – "Jack don't talk Thai..."

The tenant had a hidden surveillance camera in the house to view any undesirables **similar** to Jack's Nanny Camera.

The tenant views the camera in an attempt to prove the landlord and his brother were the true culprits **similar** to when Jack Brynes views the camera to prove that Gregg was the culprit.

The defenses of the respondents fall short of reality when respondents begin using similar scenes in trying to prove dissimilarities. A paradox in itself that is self-defeating. In essence actually helping this petitioner prove similarities and copyright infringement.

The respondents in this case have the luxury of choosing between 5 different copyrights of this petitioner totally evading the main "Stolen Federal Copyright. "

The district court set an example of the car scene however if you take the full context of the car scene many scenes will be revealed and whatever is deconstructed will be reconstructed in further proving combinations of substantial similarities and an arrangement of individually unprotectable ideas that can support a finding of copyright infringement. ***Metcalf v. Bochco,*** **n. 50** ***supra.*** **294 F .3d at 1073.**

Prior to the car scene the landlord is manning a window pacing back and forth cynical and apprehensively about his relationship with the new tenant working out **similar** to Jack Brynes who is

also manning a window cynical and apprehensive about Pam's relationship with her new boyfriend.

The landlord is time conscious **similar** to Jack Brynes being time conscious.

In "The Tenant" the tenant pulls into the driveway and sees the dilated pupil of the landlord "watching his every move" the tenant feels uncomfortable ... the landlord finally answers the door and claims to have been taking a shower however his hair was noticeably dry **similar** Focker who started the frayed wire spark fire claimed to Jack Brynes that he was taking a shower however his hair was noticeable dry. (The comical aspect is that they are both lying.)

The difference in whether you are asking whether the car is automatic or standard or what color is irrelevant, you are still asking about the car. The comical aspect is what leads up to the question.

All of the comical aspects that gave "Meet the Parents" and "Meet the Fockers" worldwide success were stolen and extracted from this petitioner's "Federal Protected Copyrights." It is far from coincidental to have all of the characters, scenes and settings including and not limited to deleted scenes.

4. The Statute of limitations concerning "Meet the Parents" January 11, 2006 order was ambiguous, not clarified and this petitioner was unaware.

The district court stated in its January 11, 2006 decision: "There can be little doubt that Ardito

should have known of any infringement by "Meet the Parents" at or shortly thereafter the highly publicized release of the film. In 2000 5% of the population in the United States saw "Meet the Parents" if this petitioner saw "Meet the Parents" the Statute of Limitations would not have been an issue. This petitioner was inundated in the Supreme Court in Manhattan concerning the custody of his daughter and this petitioner's mother was sick dying of lung cancer. At that time this petitioner was not only a full time dad taking care of his daughter but taking care of his mother as well. So it wouldn't appear clear that this appellant should have known. When this petitioner viewed "Meet the Fockers" the police were immediately notified.

5. Civil RICO

This case deals with an "Organized Crime Syndicate" whom have executed their premeditated scheme with precision in an unconscionable manner with the sole intent of stealing and depriving this plaintiff of his Federal protected Copyrights and unlawfully passing them off as their own in the making of defendants' motion pictures entitled "Meet the Parents" and "Meet the Fockers" for the purpose of this litigation. However, no discovery in this case has been afforded to this petitioner even though the defendants in this case have brazenly tampered with federal evidence, perjured affidavits and have intentionally perpetrated frauds throughout these legal proceedings. This truly violates and undermines one's perception of justice. This sort of criminal conduct has to be abolished in the interest of fairness and justice.

This petitioner is respectfully requesting that the Civil RICO dismissal be reversed due to the extenuating circumstances that have evolved in this case pertaining to the circumventing of evidence, the deceptive tampering of evidence by the defendants. The Civil RICO will give this petitioner the opportunity to reveal the copyright theft ring.

Summary judgment may not be granted unless "the pleadings, depositions, answers to interrogatories and admissions on file, together with affidavits, if any, show there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56 (c). *See also Celotes Corp. v. Catrett,* 477. 477 U.S. 317, 322 (1986). *Anderson v. Lobby, Inc.,* 477 U.S.242, 247-48 (1986). *Gallo v. Prudential Residential Servs, Ltd. P'ship,* 22 F. 3d 1219, 1223 (2d Cir.1994).

In determining whether summary judgment is appropriate, a court must resolve all ambiguities and draw all reasonable inferences against the moving party. See *Malsushita Elec Indus. Co. Ltd. v. Zenith Radio Corp.,* 475 U.S. 574, 587 (1986).

Summary judgment is improper if there is any evidence in the record from any source from which a reasonable inference could be drawn in favor of the non-moving party. See *Chambers v. TRM Copy Ctrs., Corp.,* 43 F.3d 29, 37 (2d Cir. 1994).

In considering the motion, the court's responsibility is not to resolve disputed issues of fact, but to assess whether there are factual issues to be

tried. *Knight v. U.S. Fire Inc. Co.,* 804 F. 2d 9, 11 (9th Cir. 1986).

Summary judgment should have failed because there are questions of fact in determining this case involving the premeditated theft of Federal Protected Copyrights, the tampering of federal evidence, the perjured affidavits, the alleged 1991 Meet the Parents video cassette, access and the overwhelming characters, scenes and settings that clearly prove that the respondents in this case beyond any reasonable doubt copied and plagiarized the Stolen Federal Copyrighted Materials in the making of "Meet the Parents" and "Meet the Fockers." **See Opposition to Summary Judgment Motion, App. 31 and Table of Similarities, App. 75 -179.**

CONCLUSION

For the foregoing reasons stated herein, this petitioner respectfully request and prays that the judgment of the Second Circuit be reversed, and this case be remanded to the district court for discovery and trial in the interest of justice and grant this petitioner such other and further relief as the court deems just and proper.

State of New York)
) **ss.**
County of New York)

I am the petitioner in this action herein, I have read the foregoing Petition for a Writ of Certiorari and know the content thereof and the same is true of my own knowledge, except as to the matters stated to be alleged upon information and belief and those matters I believe to be true.

Joseph Ardito

Sworn to before me this
3rd day of March, 2008

Notary Public

KATERINA I. GRAJALES
Notary Public, State Of New York
No. 01GR5010801
Qualified in N.Y. County
Commission Expires 4/5/20 11